

RESOLUTION NO. 04-38

**RESOLUTION OF THE BOARD OF DIRECTORS OF
VISTA IRRIGATION DISTRICT
ADOPTING AN AMENDED CONFLICT OF INTEREST CODE**

WHEREAS, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the Vista Irrigation District and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the Board of Directors of the Vista Irrigation District adopted a Conflict of Interest Code (the "Code") which was amended on August 21, 2002, in compliance with Government Code Section 81000, et seq.; and

WHEREAS, subsequent changed circumstances with the Vista Irrigation District have made it advisable and necessary, pursuant to Sections 87306 and 87307 of the Act, to amend and update the District's Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which would result in the Vista Irrigation District being restrained or prevented from acting in cases where provisions of the act may have been violated; and

WHEREAS, a public meeting was held upon the proposed amended Conflict of Interest Code at a regular meeting on September 1, 2004, at which all present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Vista Irrigation District that the Board of Directors does hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be filed with the District Secretary and available for inspection to the public;


BE IT FURTHER RESOLVED that Resolution No. 02-24 adopting the Sixth Amended Conflict of Interest Code on August 21, 2002 is rescinded upon the adoption of said amended Code;

BE IT FURTHER RESOLVED that the said amended Conflict of Interest Code shall be submitted to the Board of Supervisors of the County of San Diego for approval and said amended Code shall become effective 30 days after the Board of Supervisors approves the amended Code as submitted.

PASSED AND ADOPTED this 15th day of September 2004, by the following roll call vote:

AYES:	Directors Mendez, Campo, Williams, Burzell and MacKenzie
NOES:	None
ABSTAIN:	None
ABSENT:	None


Jo MacKenzie, President

ATTEST:

Sherrie D. Jorgenson, Secretary
Board of Directors

— Strike-out version —



~~SIXTH AMENDED~~
CONFLICT OF INTEREST CODE
(AMENDED SEPTEMBER 15, 2004)

Vista Irrigation District
1391 Engineer Street
Vista, California 92081
(760) 597-3100

**SIXTH AMENDED
CONFLICT OF INTEREST CODE
OF THE
VISTA IRRIGATION DISTRICT
COUNTY OF SAN DIEGO
(Amended September 15, 2004)**

The agency designated above hereby submits the following Conflict of Interest Code to the Board of Supervisors of the County of San Diego.

Dated: September 15, 2004

Sherrie D. Jorgenson, Secretary
Board of Directors
VISTA IRRIGATION DISTRICT



Received on behalf of the Board of Supervisors of the County of San Diego.

Dated: _____

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

The following Conflict of Interest Code, having been submitted by the agency designated above, was approved by order of the Code Reviewing Body on _____.

Other action, if any:

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

**SIXTH AMENDED
CONFLICT OF INTEREST CODE
OF THE
VISTA IRRIGATION DISTRICT
(Amended September 15, 2004)**

The Political Reform Act of 1974 (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission (FPPC) has adopted a regulation (2 Cal. Code of Regs. Sec. 18730), which contains the terms of a standard conflict of interest code. ~~It can be incorporated by reference as an agency's code.~~ After public notice and hearing, the regulation may be amended by the FPPC to conform to amendments in the Political Reform Act.

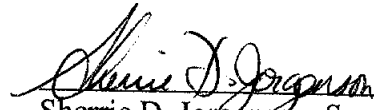
Therefore, the terms of ~~Title 2, Division 6 of the 2 California~~ Code of Regulations Section 18730 and any future amendments to it duly adopted by the FPPC are hereby incorporated by reference. Said This regulation (attached) and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the ~~Sixth Amended~~ Conflict of Interest Code of the Vista Irrigation District.

~~—Pursuant to Section 4 of the standard code, designated employees shall file statements of economic interests with the Secretary of the Vista Irrigation District. Upon receipt of the statements of the members of the board of Directors and the General Manager, the Secretary shall make and retain copies and forward the originals of these statements to the Clerk of the San Diego County Board of Supervisors. The Vista Irrigation District shall retain statements for all other designated employees. Statements submitted by candidates for elected office shall be filed with the Secretary of the District on or before the deadline for filing the Declaration of Candidacy forms with the Registrar of Voters. The Vista Irrigation District shall also retain these statements.~~

All officials required to submit a statement of economic interests shall file their statements with the Secretary of the Vista Irrigation District as the District's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by members of the Board of Directors, Treasurer, Assistant Treasurer and the General Manager and forward the originals of these statements to the Clerk of the San Diego County Board of Supervisors. The Vista Irrigation District shall retain statements for all other designated employees. The Filing Officer will make all retained statements available for public inspection and reproduction (Gov. Code Section 81008).

~~A copy of the current regulation and standard code and definitions contained in the Political Reform Act of 1974 and in the regulations of the Fair Political Practices Commission are attached hereto for reference only and are subject to future amendments by the FPPC.~~

Adopted by the Board of Directors of the Vista Irrigation District on the 1st day of September 2004.


Sherrie D. Jorgenson, Secretary
Board of Directors
VISTA IRRIGATION DISTRICT

**CONFLICT OF INTEREST CODE
OF
VISTA IRRIGATION DISTRICT
(Amended September 15, 2004)**

APPENDIX

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

District officials who manage public investments, as defined as 2 Cal. Code of Regs. §18701(b), are NOT subject to the District's Code, but are subject to disclosure requirements of the Act (Government Code Section 87200 et seq.). [Regs. 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are other District officials who manage public investments:

Member of Board of Directors
General Manager
Assistant General Manager
Treasurer
Director of Finance
Assistant Treasurer
Financial Consultants

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

The Treasurer, Assistant Treasurer, and all District officials who manage the investment of public funds are included in and governed by this Conflict of Interest Code only with respect to its disqualification provisions. For purposes of disclosure, the Treasurer, Assistant Treasurer, and all District officials who manage the investment of public funds are governed by the statutory conflict of interest provisions of Article 2 of Chapter 7 of the Political Reform Act of 1974 (Government Code Section 87200, et seq.)

The persons holding positions listed below are "designated employees" who are subject to the provisions of this Code. Each such designated employee is required to disclose interests only in those categories set forth, which are identified by the numbers following his or her title.

Disclosure Categories

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property that the designated employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in, and sources of income from, all business entities that do business or own real property within the jurisdiction of the District, plan to do business or own real property within the jurisdiction of the District within the next year or have done business or owned real property within the jurisdiction of the District within the past two years.

Category 2: All interest in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the District.

Category 3: All investments and business positions in, and sources of income from, business entities subject to the regulatory, permit or licensing authority of the Designated Employee's Department, will be subject to such authority within the next year or have been subject to such authority within the past two years.

Category 4: All investments in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the District, plan to engage in such activities within the jurisdiction of the District within the next year or have engaged in such activities within the jurisdiction of the District within the past two years.

Category 5: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan or other financial institutions.

Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased or leased by the District.

Category 7: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type used or administered by the Designated Employee's Department.

Designated Positions

Disclosure Categories

Board of Directors	1, 2, 3, 4, 5, 6
General Manager and Chief Engineer	1, 2, 3, 4, 5, 6
Assistant General Manager	1, 2, 3, 4, 5, 6
Assistant Chief Engineer	1, 2, 3, 4, 5, 6
General Counsel, Attorney	1, 2, 3, 4, 5, 6
Treasurer	1, 2, 5, 7
Assistant Treasurer	1, 2, 5, 7
Director of Finance	1, 2, 5, 7
Finance Accounting Manager	1, 2, 5, 7
Customer Service Manager	1, 2, 5, 6, 7
Director of Water Resources	2, 5, 6, 7
Director of Water Resources Engineering	2, 5, 6, 7
Director of Facilities	2, 4, 6, 7
Engineering Manager	2, 4, 6, 7
Information Systems Manager	5, 6, 7
Human Resources Manager	6, 7
Administrative Manager	6, 7
Safety/Risk Manager	6, 7
Engineering Project Manager	6, 7
Construction Manager	6, 7
Water Resources Manager	6, 7
Facilities Manager	6, 7
Facilities Supervisor	6, 7
Operations Manager	6, 7
Operations Supervisor	6, 7
Purchasing/Risk Agent	6, 7
Senior Mechanic	6, 7
<u>Consultants*</u>	
Financial Consultants and Bond Counsel	1, 2, 4, 5, 6
Appraisers	1, 2, 4, 6
Engineering Consultants	1, 2, 6
Environmental Consultants	1, 2, 4, 6
Public Relations Consultants	1, 2, 6

* This position is required to report by virtue of Government Code Section 87200. It is included for disqualification purposes only.

**** Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:**

~~Consultants shall not be required to file disclosure statements where they: (a) conduct research and arrive at conclusions with respect to rendition of information, advice, recommendation or counsel independent of control and direction of the agency or any agency official other than normal contract monitoring; and (b) possess no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel. The determination as to whether a consultant shall be required to file a disclosure statement shall be made by the General Manager or his or her designee.~~

The General Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The General Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

ATTACHMENT A

(Regulations of the Fair Political Practices Commission, Title 2,
Division 6 of the California Code of Regulations)

18730 Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code §87300 or the amendment of a conflict of interest code within the meaning of Government Code §87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code §81000, *et seq.* The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code §87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. §18100, *et seq.*), and any amendment to the Act or regulations, are incorporated by reference into this conflict of interest code.

Section 2. Designated Employees

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions that may foreseeably have a material effect on financial interests.

Section 3. Disclosure Categories

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code §87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code §87200, *et seq.*

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code §87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests: Place of Filing

The code-reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code-reviewing body, as provided by the code-reviewing body in the agency's conflict of interest code.²

Section 5. Statements of Economic Interests: Time of Filing

- (A) *Initial Statements.* All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.
- (B) *Assuming Office Statements.* All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
- (C) *Annual Statements.* All designated employees shall file statements no later than April 1.
- (D) *Leaving Office Statements.* All persons who leave designated positions shall file statements within 30 days after leaving office.

Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appoints, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such person shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

- (1) File a written resignation with the appointment power; and
- (2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any

decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Section 6. Contents of and Period Covered by Statements of Economic Interest

(A) *Contents of Initial Statements*

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) *Contents of Assuming Office Statements*

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) *Contents of Annual Statements*

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office, whichever is later.

(D) *Contents of Leaving Office Statement*

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

Section 7. Manner of Reporting

Statements of economic interests shall be made on form prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) *Investments and Real Property Disclosure*

When an investment or an interest in real property³ is required to be reported⁴, the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceed one million dollars (\$1,000,000).

(B) *Personal Income Disclosure*

When personal income is required to be reported⁵, the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) *Business Entity Income Disclosure*

When income of a business entity, including income of a sole proprietorship, is required to be reported⁶, the statement shall contain:

1. The name, address and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) *Business Position Disclosure*

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) *Acquisition or Disposal During Reporting Period*

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 8. Prohibition on Receipt of Honoraria

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Government Code §89501 shall apply to the prohibitions in this section.

Section 8.1. Prohibition on Receipts of Gifts in Excess of \$340.

(A) No member of a state board or commission, and no designated employee of a state of local government agency, shall accept gifts with a total value of more than three hundred forth dollars (\$340) in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code §89503 shall apply to the prohibitions in this section.

Section 8.2. Loans to Public Officials

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lenders regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed five hundred (\$500) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

Section 8.3. Loan Terms

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

Section 8.4. Personal Loans

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - a. The date the loan was made.
 - b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.

- c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

Section 9. Disqualification

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$340 or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

Section 9.3. Legally Required Participation

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

Section 9.5. Disqualification of State Officers and Employees

In addition to the general disqualification provisions of Section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services or 18705.2(c) totaling in value one thousand dollars (\$1,000) or more.

Section 10. Disclosure of Disqualifying Interest

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accomplished by disclosure of the disqualifying interest.

Section 11. Assistance of the Commission and Counsel

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code §83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

Section 12. Violations

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code § 81000 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code § 87100 or 87450 has occurred may be set aside as void pursuant to Government Code § 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code §81004.

² See Government Code §81010 and 2 Cal. Code of Regs, §18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interest in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

ATTACHMENT B

(Definitions of Political Reform Act of 1974 and Regulations of the Fair Political Practices Commission attached to aid in determining disclosure requirements and designated employee disqualification)

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DEFINITIONS

1. BUSINESS ENTITY: Any organization or enterprise operated for profit, including, but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association. (§ 82005.)
2. CONSULTANT: Any natural person who provides, under contract, information, advice, recommendation or counsel to the District. But "consultant" shall not include a person who:
 - a. Conducts research and arrives at conclusions with respect to his rendition of information, advice, recommendation or counsel independent of the control and direction of the District or of any official, other than normal contract monitoring; and
 - b. possesses no authority with respect to any District decision beyond the rendition of information, advice, recommendation or counsel. (Reg. § 18700(a)(2))
3. DESIGNATED EMPLOYEE: Any officer, employee, member, or consultant of any agency whose position with the agency is designated in the Appendix to the District's Code. The Appendix sets forth those positions which entail the making or participation in the making of governmental decisions which may foreseeably have a material financial effect on any financial interest, but does not include any unsalaried member of any board or commission which serves a solely advisory function. (§82019.)
4. FINANCIAL INTEREST: A designated employee has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, including all property owners with the District or all those served by the District, or on any significant segment of the property owners within the District or those served by the District or of the public generally, on:
 - a. The designated employee or a member of his or her immediate family;
 - b. Any business entity in which the designated employee has a direct or indirect interest worth \$2,000 or more;
 - c. Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;
 - d. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within twelve months prior to the time when the decision is made;
 - e. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
 - f. Any donor of, or any intermediary or agent for a donor of a gift or gifts aggregating \$340 or more in value provided to, received by, or promised to the designated employee within twelve months prior to the time when the decision is made.

5. IMMEDIATE FAMILY: A spouse and dependent children. (§82029)

6. INCOME:

a. "Income" means, except as provided in subdivision "b" below, a payment received from any source located within the jurisdiction of the District, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a 10 percent interest or greater. Income, other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two year period prior to the time any statement or other action is required under the Act.

b. Income also does not include:

(1) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974.

Income from a source which is a former employer if: All income from the employer was received by or accrued to the designated employee prior to the time he or she became a designated employee; the income was received in the normal course of the previous employment; and there was no expectation by the designated employee at the time he or she assumed the designated position of renewed employment with the former employer (Reg. 18704);

(2) Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) Any devise or inheritance.

(4) Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.

(6) Redemption of mutual funds.

(7) Alimony or child support payments.

- (8) Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status.
 - (9) Any loan from or payments received on a loan made to an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan or loan payment received from any such person shall be considered income if he or she is acting as an agent or intermediary for any person not covered by this paragraph.
 - (10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status.
 - (11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).
 - (12) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the filer sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.
7. INDIRECT INVESTMENTS OR INTEREST: Any investment or interest owned by the spouse or dependent child of a designated employee, an agent on behalf of the designated employee, by any business entity or by a trust in which the designated employee or his or her agents, spouse or dependent own directly, indirectly or beneficially a 10% or greater interest (§87103).
8. INTEREST IN REAL PROPERTY: Includes any leasehold, beneficial or ownership interest or an option to acquire such interest in real property located within the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is \$2,000 or more. Interests in real property of an individual include a pro rata share of interest in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10% interest or greater (§82033). An interest in real property does not include a tenancy of one month or less (Reg. 18233)
9. INVESTMENT: Any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000).

Investment does not include:

- a. A time or demand deposit in a financial institution;
- b. any shares in a credit union;
- c. any insurance policy;
- d. interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940, or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency.

Investments of an individual include a pro rata share of investments of any business entity, mutual fund or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10% interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the FPPC. (§82034)

10. JURISDICTION: The geographical area within the District's boundaries, except that real property shall be deemed to be within the "jurisdiction" of the District if any part of it is located within or not more than two miles outside the boundaries of the District, or within two miles of any land owned or used by the District. (§82035)
11. MAKING GOVERNMENTAL DECISIONS: A designated employee is involved in "making governmental decisions", except as provided in subsection b under the definition "participating in the making of governmental decisions" of this attachment, when he or she, acting within the authority of his or her office:
 - a. Votes on a matter;
 - b. appoints a person;
 - c. obligates or commits the District to any course of action;
 - d. enters into any contractual agreement on behalf of the District;
 - e. determines not to act, within the meaning of subparagraphs a, b, c, d, unless such determination is made because of his or her financial interest. When the determination not to act occurs because of his financial interest, the designated employee's determination must be accompanied by disclosure of the financial interest in the manner prescribed in Section 10 of the Standard Code. (Reg. 18700(b)(10.))
12. MATERIAL FINANCIAL EFFECT-SPECIAL AND GENERAL RULES: Attached Regulations 18702 through 18702.6 set forth the special and general rules to determine whether the effects of the decision would be material.
13. EFFECT ON THE PUBLIC GENERALLY: Attached regulations 18703, 18703.1 and 18703.5.
14. PUBLIC OFFICIAL: Every member, officer, employee or consultant of a state or local government agency. (§82048.)

15. PARTICIPATING IN THE MAKING OF GOVERNMENTAL DECISIONS:

- a. A designated employee "participates in the making of a governmental decision," except as provided in b. below when he or she, acting within the authority of his or her position:
- (1) Negotiates without significant substantive review, with a governmental entity or private person regarding the decision; or
 - (2) advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:
 - (i) Conducting research or investigations which require(s) the exercise of judgment on the part of the designated employee and the purpose of which is to influence the decision; or
 - (ii) preparing or presenting any report, analysis, or opinion, orally or in writing, which requires the exercise of judgment on the part of a designated employee and the purpose of which is to influence the decision.
- b. Making or "participating in the making of a governmental decision" shall not include:
- (1) Actions of designated employees that are solely ministerial, secretarial, manual or clerical;
 - (2) appearances by a designated employee as a member of the general public before an agency in the course of its prescribed governmental function to represent himself of herself on matters related solely to his or her personal interests; or
 - (3) actions by designated employees or their representatives relating to their compensation or the terms or conditions of their employment contract.

16. LEGALLY REQUIRED PARTICIPATION

- a. A public official is not legally required to make or to participate in the making of a governmental decision within the meaning of Government Code § 87101 unless there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.
- b. Whenever a public official who has a financial interest in a decision is legally required to make or to participate in making such a decision, he or she shall:
- (1) Disclose as a matter of official public record the existence of the financial interest;
 - (2) Describe with particularity the nature of the financial interest before he or she makes or participates in making the decision;
 - (3) State the reason there is no alternative source of decision-making authority;
 - (4) Participate in the decision only in an open meeting of the agency, as required by Government Code § 11123 and 54953, or in closed session, as provided in Government

Code § 11126, 54956.7, 54956.8, 54956.9, 54957 and 54957.6 where participation by the official is legally required for the agency to act.

- c. This regulation shall be construed narrowly, and shall:
 - (1) Not be construed to permit an official, who is otherwise disqualified under Government Code § 87100, to vote to break a tie.
 - (2) Not be construed to allow a member of any public agency, who is otherwise disqualified under Government Code § 87100, to vote if a quorum can be convened of other members of the agency who are not disqualified under Government Code § 87100, whether or not such other members are actually present at the time of the disqualification (Reg. 18701).
- 17. SOURCES OF COMMISSION INCOME TO BROKERS, AGENTS AND SALESPERSONS are governed as rules set forth in attached Regulation 18704.3
- 18. VALUATION, RECEIPT AND RETURN OF GIFTS RULES. Attached Regulations 18944 through 18946.4 set forth rules as to the valuation, receipt and return of gifts.

Title 2, California Code of Regulations Excerpts

§18702. Making, Participating in Making, or using or Attempting to Use Official Position to Influence a Government Decision, Defined.

- (a) To determine if a public official is making, participating in making, or using or attempting to use his/her official position to influence a government decision, apply 2 Cal. Code Regs. Sections 18702.1 through 18702.4, respectively.
- (b) Notwithstanding subdivision (a) of this regulation, to determine if a public official who holds an office specified in Government Code section 87200 is making, participating in making, or using or attempting to use his or her official position to influence a governmental decision relating to an agenda item which is noticed for a meeting subject to the provisions of the Bagley-Keene Act (Government Code section 11120 et seq.) or the Brown Act (Government Code section 54950 et seq.) apply 2 Cal. Code Regs. Sections 18702.1(a)(1)-(a)(4), 18702.2, 18702.3, 18702.4, 18702.5.

§18702.1 Determining When a Public Official is Making a Governmental Decision.

- (a) A public official "makes a governmental decision," except as provided in 2 Cal. Code Regs. Section 18702.4, when the official, acting within the authority of his or her office or position:
- (1) Votes on a matter;
 - (2) Appoints a person;
 - (3) Obligates or commits his or her agency to any course of action;
 - (4) Enters into any contractual agreement on behalf of his or her agency;
 - (5) Determines not to act, within the meaning of subdivisions (a)(1), (a)(2), (a)(3), or (a)(4) above, unless such determination is made because of his or her financial interest. When the determination not to act occurs because of the official's financial interest, the official's determination may be accompanied by an oral or written disclosure of the financial interest.
- (b) When an official with a disqualifying conflict of interest abstains from making a governmental decision in an open session of the agency and the official remains on the dais or in his or her designated seat during deliberations of the governmental decision in which he or she is disqualified, his or her presence shall not be counted toward achieving a quorum.
- (c) During a closed meeting of the agency, a disqualified official shall not be present when the decision is considered or knowingly obtain or review a recording or any other non-public information regarding the governmental decision.
- (d) Notwithstanding subdivision (a) of this regulation, to determine if a public official who holds an office specified in Government Code section 87200 is making, participating in making, or using or attempting to use his or her official position to influence a governmental decision relating to an agenda item which is noticed for a meeting subject to the provisions of the Bagley-Keene Act (Government Code section 11120 et seq.) or the Brown Act (Government Code section 54950 et seq.) apply 2 Cal. Code Regs. Sections 18702.1(a)(1)-(a)(4), 18702.2, 18702.3, 18702.4, 18702.5.

COMMENT: Nothing in this section authorizes or prohibits an agency by local rule or custom from requiring a disqualified member to step down from the dais and/or leave the chambers.

§18702.2 Determining When a Public Official is Participating in Making a Governmental Decision.

A public official "participates in making a governmental decision," except as provided in Title 2, California Code of Regulations, section 18702.4, when, acting within the authority of his or her position, the official:

(a) Negotiates, without significant substantive review, with a governmental entity or private person regarding a governmental decision referenced in Title 2, California Code of Regulations, section 18701(a)(2)(A);

(b) Advises or makes recommendations to the decisionmaker either directly or without significant intervening substantive review, by:

- (1) Conducting research or making any investigation which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision referenced in Title 2, California Code of Regulations, section 18701(a)(2)(A); or
- (2) Preparing or presenting any report, analysis, or opinion, orally, or in writing, which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision referenced in Title 2, California Code of Regulations, section 18701(a)(2)(A).

§18702.3 Determining When a Public Official is Using or Attempting to Use His/Her Official Position to Influence a Governmental Decision.

(a) With regard to a governmental decision which is within or before an official's agency or an agency appointed by or subject to the budgetary control of his or her agency, the official is attempting to use his or her official position to influence the decision if, for the purpose of influencing the decision, the official contacts, or appears before, or otherwise attempts to influence, any member, officer, employee or consultant of the agency. Attempts to influence include, but are not limited to, appearances or contacts by the official on behalf of a business entity, client, or customer.

(b) With regard to a governmental decision which is within or before an agency not covered by subsection (a), the official is attempting to use his or her official position to influence the decision if, for the purpose of influencing the decision, the official acts or purports to act on behalf of, or as the representative of, his or her agency to any member, officer, employee or consultant of an agency. Such actions include, but are not limited to the use of official stationery.

§18702.4 Exceptions.

(a) Making or participating in making a governmental decision shall not include:

- (1) Actions of public officials which are solely ministerial, secretarial, manual, or clerical;
- (2) Appearances by a public official as a member of the general public before an agency in the course of its prescribed governmental function to represent himself or herself on matters related solely to the official's personal interests as defined in Title 2, California Code of Regulations, section 18702.4(b)(1); or
- (3) Actions by public officials relating to their compensation or the terms or conditions of their employment or contract. In the case of public officials who are "consultants," as defined in Title 2, California Code of Regulations, section 18701(a)(2), this includes actions by consultants relating to the terms or conditions of the contract pursuant to which they provide services to the agency, so long as they are acting in their private capacity.

(b) Notwithstanding Title 2, California Code of Regulations, section 18702.3(a), an official is not attempting to use his or her official position to influence a governmental decision of an agency covered by that subsection if the official:

- (1) Appears in the same manner as any other member of the general public before an agency in the course of its prescribed governmental function solely to represent himself or herself on a matter which is related to his or her personal interests. An official's "personal interests" include, but are not limited to:
 - (A) An interest in real property which is wholly owned by the official or members of his or her immediate family.

- (B) A business entity wholly owned by the official or members of his or her immediate family.
- (C) A business entity over which the official exercises sole direction and control, or over which the official and his or her spouse jointly exercise sole direction and control.
- (2) Communicates with the general public or the press.
- (3) Negotiates his or her compensation or the terms and conditions of his or her employment or contract.
- (4) Prepares drawings or submissions of an architectural, engineering or similar nature to be used by a client in connection with a proceeding before any agency. However, this provision applies only if the official has no other direct oral or written contact with the agency with regard to the client's proceedings before the agency except for necessary contact with agency staff concerning the processing or evaluation of the drawings or submissions prepared by the official.
- (5) Appears before a design or architectural review committee or similar body of which he or she is a member to present drawings or submissions of architectural, engineering or similar nature which the official has prepared for a client if the following three criteria are met:
 - (A) The review committee's sole function is to review architectural or engineering plans or designs and to make recommendations in that instance concerning those plans or designs to a planning commission or other agency;
 - (B) The ordinance or other provision of law requires that the review committee include architects, engineers or persons in related professions, and the official was appointed to the body to fulfill this requirements; and
 - (C) The official is a sole practitioner.
- (c) Academic Decisions
 - (1) Except as provided in subsection (c)(2), neither disclosure of financial interests nor disqualification is required under Government Code section 87100, 87302, or any Conflict of Interest code, in connection with:
 - (A) Teaching decisions, including the selection by a teacher of books or other educational materials for use within his or her own school or institution, and other decisions incidental to teaching;
 - (B) Decisions made by a person who has teaching or research responsibilities at an institution of higher education to pursue personally a course of academic study or research, to apply for funds to finance such a project, to allocate financial and material resources for such academic study or research, and all decisions relating to the manner or methodology with which such study or research will be conducted. Provided, however, that the provisions of this subsection (c)(1)(B) shall not apply with respect to any decision made by the person in the exercise of institution- or campus-wide administrative responsibilities respecting the approval or review of any phase of academic research or study conducted at that institution or campus.
 - (2) Disclosure shall be required under Government Code section 87302 or any Conflict of Interest Code in connection with a decision made by a person or persons at an institution of higher education with principal responsibility for a research project to undertake such research, if it is to be funded or supported, in whole or in part, by a contract or grant (or other funds earmarked by the donor for a specific research project or for a specific researcher) from a nongovernmental entity, but disqualification may not be required under Government Code section 87100, 87302 or any Conflict of Interest Code in connection with any such decision if the decision is substantively reviewed by an independent committee established within the institution.

§18702.5 Public Identification of a Conflict of Interest for Section 87200 Filers.

- (a) Government Code section 87105 and this regulation apply when a public official who holds an office specified in Government Code section 87200 has a financial interest in a decision within the meaning of Government Code section 87100, and the governmental decision related to an agenda item which is noticed for a meeting subject to the provisions of the Bagley-Keene Act (Government Code section 11120 et seq.) or the Brown Act (Government Code section 54950 et seq.).
- (b) Content & Timing of Identification: The public official shall, following the announcement of the agenda item to be discussed or voted upon but before either the discussion or vote commence, do all of the following:
- (1) The public official shall publicly identify:
 - (A) Each type of economic interest held by the public official which is involved in the decision (i.e., investment, business position, interest in real property, personal financial effect, or the receipt or promise of income or gifts), and
 - (B) The following details identifying the economic interest(s):
 - (i) if an investment, the name of the business entity in which each investment is held;
 - (ii) if a business position, a general description of the business activity in which the business entity is engaged as well as the name of the business entity;
 - (iii) if real property, the address or another indication of the location of the property, unless the property is the public official's principal or personal residence, in which case, identification that the property is a residence;
 - (iv) if income or gifts, then identification of the source; and
 - (v) if personal financial effect, then identification of the expense, liability, asset or income affected.
 - (2) Form of Identification: If the governmental decision is to be made during an open session of a public meeting, the public identification shall be made orally and shall be made part of the official public record.
 - (3) Recusal/Leaving the Room: The public official must recuse himself or herself and leave the room after the identification required by subdivisions (b)(1) and (b)(2) of this regulation is made. He or she shall not be counted toward achieving a quorum while the item is discussed.
- (c) Special Rules for Closed Session: If the governmental decision is made during a closed session of a public meeting, the public identification may be made orally during the open session before the body goes into closed session and shall be limited to a declaration that his or her recusal is because of a conflict of interest under Government Code section 87100. The declaration shall be made part of the official public record. The public official shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the governmental decision.
- (d) Exceptions:
- (1) Uncontested Matters: The exception from leaving the room granted in Government Code section 87105(a)(3) for a "matter [that] has been placed on the portion of the agenda reserved for uncontested matters" shall mean agenda items on the consent calendar. When the matter in which the public official has a financial interest is on the consent calendar, the public official must comply with subdivisions (b)(1) and (b)(2) of this regulation, and recuse himself or herself from discussion or voting on that matter, but the public official is not required to leave the room during the consent calendar.
 - (2) Absence: If the public official is absent when the agenda item subject to subdivision (a) of this regulation is considered, then Government Code section 87105 and this regulation impose no public identification duties on the public official for that item at that meeting.
 - (3) Speaking as a member of the Public Regarding an Applicable Personal Interest: When a personal interest found in 2 Cal. Code Regs. Section 18702.4(b) is present, a public official may speak as a member of the general public if he or she complies with subdivisions (b)(1) and (b)(2) of this regulation,

recuses himself or herself from voting on the matter and leaves the dais to speak from the same area as the members of the public. He or she may listen to the public discussion of the matter with the members of the public.

COMMENT: Nothing in the provisions of this regulation is intended to cause an agency or public official to make any disclosure that would reveal the confidences of a closed session or any other privileged information as contemplated by law including but not limited to the recognized privileges found in 2 Cal. Code Regs. Section 18740.

§18702.6 Material Financial Effect: Source of income or Gifts Who is an Individual Indirectly Involved in the Decision.

Repealer filed 11/23/1998; operative 11/23/98.

§18703 Economic Interests, Defined.

For purposes of Title 2, Division 6, Chapter 7 of the California Code of Regulations, the term "economic interest" includes the interests defined in Title 2, California Code of Regulations, sections 18703.1 through 18703.5, inclusive.

§18703.1 Economic Interest, Defined: Business Entities.

For purposes of disqualification under Government Code section 87100 and 87103, a public official has an economic interest in a business entity if any of the following are true:

- (a) The public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more in the business entity.
- (b) The public official is a director, officer, partner, trustee, employee, or holds any position of management in the business entity.
- (c) Parent, Subsidiary, Otherwise Related Business Entity. An official has an economic interest in a business entity which is a parent or subsidiary of, or is otherwise related to, a business entity in which the official has one of the interests defined in Government Code section 87103(a) or (d).
- (d) parent, Subsidiary, Otherwise Related Business Entity, defined.
 - (1) Parent-subsidiary. A parent-subsidiary relationship exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.
 - (2) Otherwise related business entity. Business entities, including corporations, partnerships, joint ventures and any other organizations and enterprises operated for profit, which do not have a parent-subsidiary relationship are otherwise related if any one of the following three tests is met.
 - (A) One business entity has a controlling ownership interest in the other business entity.
 - (B) There is shared management and control between the entities. In determining whether there is shared management and control, consideration should be given to the following factors:
 - (i) The same person or substantially the same person owns and manages the two entities;
 - (ii) There are common or commingled funds or assets;
 - (iii) The business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis;

- (iv) There is otherwise a regular and close working relationship between the entities;
or
- (C) A controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.
- (e) Although a public official may not have an economic interest in a given business entity pursuant to subdivisions (a)-(c) of this section, the public official may nonetheless have an economic interest in the business entity if it is a source of income to him or her. (See 2 Cal. Code Regs. Section 18703.3).

§18703.5 Economic Interest, Defined: Personal Finances.

For purposes of disqualification under Government Code section 87100 and 87103, a public official has an economic interest in his or her personal finances and those of his or her immediate family. A governmental decision will have an effect on this economic interest if the decision will result in the personal expenses, income, assets, or liabilities of the official or his or her immediate family increasing or decreasing.

§18704.3 Sources of Commission Income to Brokers, Agents and Salespersons

Repealer filed 11/23/98; operative 11/23/98.

§18944 Valuation of Gifts to an Official and His or Her Family

- (a) Gifts given directly to members of an official's immediate family are not gifts to the official unless used or disposed of by the official or given by the recipient member of the official's immediate family to the official for disposition or use at the official's discretion.
- (b) Gifts delivered by mail or other written communication are given directly to members of the official's immediate family if the family members' names or familial designations (such as "spouse") appear in the address on the envelope or in the communication tendering or offering the gift, and the gift is intended for their use or enjoyment.
- (c) A gift given to the official, but designated for the official and spouse or family, is a gift to the official if the official exercises discretion and control over who will actually use the gift.
- (d) If the official enjoys direct benefit from a single gift, as well as members of the officials' family, the full value of the gift is attributable to the official.

§18944.1 Recipient of the Gift: Passes or Tickets Given to an Agency.

Passes or tickets which provide admission or access to facilities, goods or services, or other tangible or intangible benefits, (including passes to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, but not including travel or lodging), which are provided to an official are not gifts to the official whenever (a), (b), (c), (d) or (e) applies:

- (a) The donor gives the tickets or passes to the official's agency, through a responsible official of the agency, for the sole purpose of distributing the passes or tickets to official of the agency and their spouses and immediate families and use of the tickets or passes is so limited by the agency; and
- (b) The tickets or passes are provided to the agency for an event at a publicly-owned facility under the jurisdiction of the agency and neither the agency nor any official of the agency receiving or distributing the tickets or passes for the agency gives any of the tickets or passes to any person who is not an official of the agency, or not the official's spouse or immediate family member.
- (c) The tickets or passes are provided to the agency as part of the contract for the use of the facility and the distribution and use of the passes or tickets are regulated by an officially adopted policy of the agency.

- (d) The tickets or passes are provided to the official of the agency for use by the official and his or her spouse and immediate family because the official has an official or ceremonial role or function to perform on behalf of the agency at the event in question.
- (e) The tickets or passes are provided to an agency or officials of the agency for use at an event at a publicly-owned facility construction or operated under the provisions of a joint exercise of powers agreement and such agency is a party to the joint exercise of powers agreement, and the distribution and use of the passes or tickets are regulated by an officially adopted policy of the agency.

§18944.2 Gifts to an Agency

- (a) A payment, which is a gift as defined in Government Code Section 82028, shall be deemed a gift to a public agency, and not a gift to a public official, if all of the following requirements are met:
 - (1) The agency receives and controls the payment.
 - (2) The payment is used for official agency business.
 - (3) The agency, in its sole discretion, determines the specific official or officials who shall use the payment. However, the donor may identify a specific purpose for the agency's use of the payment, so long as the donor does not designate the specific official or officials who may use the payment.
 - (4) The agency memorializes the payment in a written public record which embodies the requirements of subdivisions (a)(1) to (a)(3) of this regulation set forth above and which:
 - (A) Identifies the donor and the official, officials, or class of officials receiving or using the payment;
 - (B) Describes the official agency use and the nature and amount of the payment; and
 - (C) Is filed with the agency official who maintains the records of the agency's statements of economic interests where the agency has a specific office for the maintenance of such statements, or where no specific office exists for the maintenance of such statements, at a designated office of the agency, and the filing is done within 30 days of the receipt of the payment by the agency.
- (b) Notwithstanding subdivisions (a)(3) and (a)(4) of this regulation, a donation to a California public college or university for a specific research project which is received consistent with the requirements of California Code of Regulations, Title 2, Section 18702.4(c) and for meals received in the course of an official fundraising activity, which qualify under federal and state law for a deduction as a charitable contribution for educational purposes, will be deemed a gift to the college or university.

§18945. Source of Gifts.

- (a) General Rule. A person is the source of a gift if the person makes a gift to an official and is not acting as an intermediary.
 - (1) If a person makes a payment to a third party and in fact directs and controls the use of the payment to make a gift to one or more clearly identified officials, the person is the source of the gift to the official or officials.
 - (2) Dues. If a person pays dues or makes a similar payment for membership in a bona fide association, including any federation, confederation, or trade, labor or membership organization, some portion of which dues or similar payments are used to make gifts to officials, that person is not the source of the gifts to those officials. However, the person is the source of the gift if the sole or primary purpose of the dues or similar payments is to make gifts to officials.
- (b) Presumption of Source by Officials. An official may presume that the person delivering the gift or, if the gift is offered but has not been delivered, the person offering the gift to him or her is the source of the gift unless either of the following are met:

- (1) The person delivering or offering the gift discloses to the official the actual source of the gift; or
- (2) It is clear from the surrounding circumstances at the time the gift is delivered or offered that the person delivering or offering the gift is not the actual source of the gift.

§18945.1. Cumulation of Gifts; "Single" Source

For purposes of the limitations in Government Code Section 89501 through 89506, two or more gifts are cumulated as being from a "single" source if any of the following circumstances apply:

- (a) Gifts from an individual and an entity in which the individual has an ownership interest of more than 50 percent shall be cumulated as being gifts from a "single" source.
- (b) Except as provided in subdivision (a), gifts from an individual and an entity shall be cumulated as being gifts from a "single" source if the individual in fact directs and controls the decision of the entity to make the gifts.
- (c) If the same person or a majority of the same persons in fact directs and controls the decisions of two or more entities to make gifts to one or more public officials or candidates, gifts by those affiliated entities shall be cumulated as being gifts from a "single" source.
- (d) Business entities in a parent-subsidary relationship, or business entities with the same controlling (more than 50 percent) owner, shall be considered a "single" source unless the business entities act independently in their decisions to make gifts to one or more public officials or candidates. For purposes of this regulation, a parent-subsidary relationship exists when one business entity owns more than 50 percent of another business entity.

§18945.3. Intermediary of a Gift.

- (a) Intermediaries of Gifts to Persons Required to File Under Title 9, Chapter 7, Article 2 of the Government Code—No person shall make a gift totaling fifty dollars (\$50) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.
- (b) Intermediaries of Gifts to Persons Required to File Under Title 9, Chapter 7, Article 3 of the Government Code—No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.
- (c) Notwithstanding subdivisions (a) and (b) above, it shall be unlawful for a lobbyist or lobbying firm to act as an intermediary in the making of any gift aggregating more than \$10 per calendar month to a state candidate, elected state officer, legislative official or agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

§18945.4. A Gift from Multiple Donors.

A gift which is received from multiple donors must be reported if the gift's value equals or exceeds \$40. The name of any donor whose share of the gift is less than \$50 in value need not be separately reported; it

is sufficient to describe in general terms those who gave the gift. If, however, the share of any donor or his or her [agent or] intermediary is \$50 or more in value, his or her name must be reported.

§18946. Reporting and Valuation of Gifts.

(a) Scope of Section. Except as specified in California Code of Regulations, Title 2, Sections 18946.1 through 18946.5, inclusive, gifts shall be valued at fair market value as of the date of receipt or promise. Sections 18946.1 through 18946.5 provide for the valuation of specific types of gifts in the following situations:

Passes and Season Tickets — Regulation 18946.1

Testimonial Dinners and Events — Regulation 18946.2

Wedding Gifts — Regulation 18946.3

Tickets to Nonprofit and Political Fundraisers — Regulation 18946.4

Prizes and Awards from Bona Fide Competitions — Regulation 18946.5

(b) General Rule for Valuation of Unique Gifts. Whenever the fair market value cannot readily be ascertained because the gift is unique or unusual, the value shall be the cost to the donor, if known or ascertainable. If the cost to the donor is unknown or unascertainable, the recipient shall make a reasonable approximation. In making such an approximation, the recipient shall take into account the price of similar items. If similar items are not available as a guide, a good faith estimate shall be utilized.

(c) Except as specified in California Code of Regulations, Title 2, Sections 18943, 18944, 18946.1, a gift must be valued, for purposes of disclosure and disqualification, even if unused, discarded or given to another person.

§18946.1. Reporting and Valuation of Gifts: Passes and Tickets.

(a) A pass or ticket which provides one-time admission or access to facilities, goods, services, or other incidental tangible or intangible benefits (including a pass to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, and also including a ticket for theater, opera, sporting, or similar event, but not including travel or lodging) shall be valued at the face value of the pass or ticket, provided that the face value is a price that was, or otherwise would have been, offered to the general public. A pass or ticket has no value unless it is ultimately used or transferred to another person.

(b) A pass or ticket which provides repeated admission or access to facilities, goods, services, or other incidental tangible or intangible benefits (including a pass to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, and also including a ticket for theater, opera, sporting, or similar event, but not including travel or lodging) shall be valued as follows:

(1) For purposes of disclosure and the gift limits, the value shall be the fair market value of the actual use of the pass or ticket by the recipient, including guests who may accompany the recipient and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person or persons to whom the privilege of use of the pass or ticket is transferred.

(2) For purposes of disqualification, the value shall be the actual use of the pass or ticket by the official, including guests who may accompany the official and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person or persons to whom the official transfers the privilege of use of the pass or ticket, through the date of the governmental decision in question; plus the fair market value of the maximum reasonable use following the date of the decision. If the official returns the pass or any unused ticket prior to the decision, the value shall be determined pursuant to subdivision (b)(1).

§18946.2. Reporting and Valuation of Gifts: Testimonial Dinners and Events.

When an official or candidate is honored at a testimonial dinner or similar event, at which campaign fundraising for the official or candidate does not occur, the value received is the official's or candidate's pro rata share of the cost of the event, plus the value of any specific tangible gift that is presented to the official candidate at the event.

§18946.3. Reporting and Valuation of Gifts: Wedding Gifts.

Notwithstanding the provisions of California Code of Regulations, Title 2, Section 18944, wedding gifts given to an official and his or her spouse or spouse-to-be are considered as gifts to both spouses equally, and the official is deemed to receive one-half of the value as determined pursuant to California Code of Regulations, Title 2, Section 18946, unless the gift is peculiarly adaptable to the personal use and enjoyment of one spouse or specifically and unequivocally intended exclusively for use and enjoyment by one spouse, in which event the full value of the gift is attributed to that spouse.

§18946.4. Reporting and Valuation of Gifts: Tickets to Nonprofit and Political Fundraisers.

A gift of a ticket or other admission privileges to a specific fundraising event shall be valued as set forth below.

- (a) Nonprofit Fundraiser. Except as provided in subdivision (b), a ticket to a fundraising event for a nonprofit, tax-exempt organization that is not a committee as defined in Government Code Section 82013(a) shall be valued as follows:
- (1) Where the event is a fundraising event for a nonprofit organization, and the ticket clearly states that a portion of the ticket price is a donation to the organization, then the value of the gift is the face value of the ticket or admission reduced by the amount of the donation.
 - (2) If the ticket has no stated price or no stated donation portion, the value of the gift is the fair market value of any food, beverage, or other tangible benefits provided to each attendee.
- (b) Where the event is a fundraising event for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue code, the ticket or other admission privilege has no value.
- (c) Political Fundraiser. Where the event is a fundraising event for a campaign committee or candidate, the ticket or other admission privilege has no value.



CONFLICT OF INTEREST CODE
(AMENDED SEPTEMBER 15, 2004)

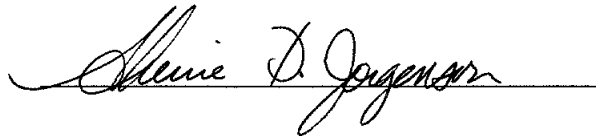
**Vista Irrigation District
1391 Engineer Street
Vista, California 92081
(760) 597-3100**

**CONFLICT OF INTEREST CODE
OF THE
VISTA IRRIGATION DISTRICT
COUNTY OF SAN DIEGO
(Amended September 15, 2004)**

The agency designated above hereby submits the following Conflict of Interest Code to the Board of Supervisors of the County of San Diego.

Dated: September 15, 2004

Sherrie D. Jorgenson, Secretary
Board of Directors
VISTA IRRIGATION DISTRICT



Received on behalf of the Board of Supervisors of the County of San Diego.

Dated: _____

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

The following Conflict of Interest Code, having been submitted by the agency designated above, was approved by order of the Code Reviewing Body on _____.

Other action, if any:

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

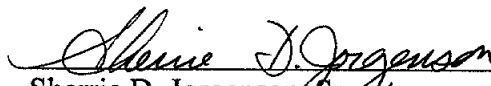
**CONFLICT OF INTEREST CODE
OF THE
VISTA IRRIGATION DISTRICT
(Amended September 15, 2004)**

The Political Reform Act of 1974 (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission (FPPC) has adopted a regulation (2 Cal. Code of Regs. Sec. 18730), which contains the terms of a standard conflict of interest code. After public notice and hearing, the regulation may be amended by the FPPC to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 *California* Code of Regulations Section 18730 and any amendments to it duly adopted by the FPPC are hereby incorporated by reference. This regulation (attached) and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code of the Vista Irrigation District.

All officials required to submit a statement of economic interests shall file their statements with the Secretary of the Vista Irrigation District as the District's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by members of the Board of Directors, Treasurer, Assistant Treasurer and the General Manager and forward the originals of these statements to the Clerk of the San Diego County Board of Supervisors. The Vista Irrigation District shall retain statements for all other designated employees. The Filing Officer will make all retained statements available for public inspection and reproduction (Gov. Code Section 81008).

Adopted by the Board of Directors of the Vista Irrigation District on the 15th day of September 2004.


Sherrie D. Jorgenson, Secretary
Board of Directors
VISTA IRRIGATION DISTRICT

**CONFLICT OF INTEREST CODE
OF
VISTA IRRIGATION DISTRICT
(Amended September 15, 2004)**

APPENDIX

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

District officials who manage public investments, as defined as 2 Cal. Code of Regs. §18701(b), are NOT subject to the District's Code, but are subject to disclosure requirements of the Act (Government Code Section 87200 et seq.). [Regs. 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are other District officials who manage public investments:

- Member of Board of Directors
- General Manager
- Assistant General Manager
- Treasurer
- Director of Finance
- Assistant Treasurer
- Financial Consultants

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

The Treasurer, Assistant Treasurer, and all District officials who manage the investment of public funds are included in and governed by this Conflict of Interest Code only with respect to its disqualification provisions. For purposes of disclosure, the Treasurer, Assistant Treasurer, and all District officials who manage the investment of public funds are governed by the statutory conflict of interest provisions of Article 2 of Chapter 7 of the Political Reform Act of 1974 (Government Code Section 87200, et seq.)

The persons holding positions listed below are "designated employees" who are subject to the provisions of this Code. Each such designated employee is required to disclose interests only in those categories set forth, which are identified by the numbers following his or her title.

Disclosure Categories

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property that the designated employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in, and sources of income from, all business entities that do business or own real property within the jurisdiction of the District, plan to do business or own real property within the jurisdiction of the District within the next year or have done business or owned real property within the jurisdiction of the District within the past two years.

Category 2: All interest in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the District.

Category 3: All investments and business positions in, and sources of income from, business entities subject to the regulatory, permit or licensing authority of the Designated Employee's Department, will be subject to such authority within the next year or have been subject to such authority within the past two years.

Category 4: All investments in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the District, plan to engage in such activities within the jurisdiction of the District within the next year or have engaged in such activities within the jurisdiction of the District within the past two years.

Category 5: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan or other financial institutions.

Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased or leased by the District.

Category 7: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type used or administered by the Designated Employee's Department.

Designated Positions

Disclosure Categories

Assistant Chief Engineer	1, 2, 3, 4, 5, 6
General Counsel, Attorney	1, 2, 3, 4, 5, 6
Accounting Manager	1, 2, 5, 7
Customer Service Manager	1, 2, 5, 6, 7
Director of Water Resources	2, 6, 7
Director of Facilities	2, 4, 6, 7
Engineering Manager	2, 4, 6, 7
Information Systems Manager	5, 6, 7
Human Resources Manager	6, 7
Administrative Manager	6, 7
Safety/Risk Manager	6, 7
Engineering Project Manager	6, 7
Construction Manager	6, 7
Water Resources Manager	6, 7
Facilities Manager	6, 7
Facilities Supervisor	6, 7
Operations Manager	6, 7
Operations Supervisor	6, 7
Purchasing/Risk Agent	6, 7
Senior Mechanic	6, 7
<u>Consultants*</u>	
Appraisers	1, 2, 4, 6
Engineering Consultants	1, 2, 6
Environmental Consultants	1, 2, 4, 6
Public Relations Consultants	1, 2, 6

* Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The General Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The General Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

ATTACHMENT A

(Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations)

18730 Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code §87300 or the amendment of a conflict of interest code within the meaning of Government Code §87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code §81000, *et seq.* The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code §87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. §18100, *et seq.*), and any amendment to the Act or regulations, are incorporated by reference into this conflict of interest code.

Section 2. Designated Employees

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions that may foreseeably have a material effect on financial interests.

Section 3. Disclosure Categories

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code §87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code §87200, *et seq.*

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code §87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests: Place of Filing

The code-reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code-reviewing body, as provided by the code-reviewing body in the agency's conflict of interest code.²

Section 5. Statements of Economic Interests: Time of Filing

- (A) *Initial Statements.* All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.
- (B) *Assuming Office Statements.* All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
- (C) *Annual Statements.* All designated employees shall file statements no later than April 1.
- (D) *Leaving Office Statements.* All persons who leave designated positions shall file statements within 30 days after leaving office.

Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appoints, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such person shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

- (1) File a written resignation with the appointment power; and
- (2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any

decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Section 6. Contents of and Period Covered by Statements of Economic Interest

(A) *Contents of Initial Statements*

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) *Contents of Assuming Office Statements*

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) *Contents of Annual Statements*

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office, whichever is later.

(D) *Contents of Leaving Office Statement*

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

Section 7. Manner of Reporting

Statements of economic interests shall be made on form prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) *Investments and Real Property Disclosure*

When an investment or an interest in real property³ is required to be reported⁴, the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceed one million dollars (\$1,000,000).

(B) *Personal Income Disclosure*

When personal income is required to be reported⁵, the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) *Business Entity Income Disclosure*

When income of a business entity, including income of a sole proprietorship, is required to be reported⁶, the statement shall contain:

1. The name, address and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) *Business Position Disclosure*

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) *Acquisition or Disposal During Reporting Period*

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 8. Prohibition on Receipt of Honoraria

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Government Code §89501 shall apply to the prohibitions in this section.

Section 8.1. Prohibition on Receipts of Gifts in Excess of \$340.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than three hundred forty dollars (\$340) in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code §89503 shall apply to the prohibitions in this section.

Section 8.2. Loans to Public Officials

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lenders regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed five hundred (\$500) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

Section 8.3. Loan Terms

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

Section 8.4. Personal Loans

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - a. The date the loan was made.
 - b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.

- c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

Section 9. Disqualification

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$340 or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

Section 9.3. Legally Required Participation

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

Section 9.5. Disqualification of State Officers and Employees

In addition to the general disqualification provisions of Section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services or 18705.2(c) totaling in value one thousand dollars (\$1,000) or more.

Section 10. Disclosure of Disqualifying Interest

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accomplished by disclosure of the disqualifying interest.

Section 11. Assistance of the Commission and Counsel

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code §83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

Section 12. Violations

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code § 81000 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code § 87100 or 87450 has occurred may be set aside as void pursuant to Government Code § 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code §81004.

² See Government Code §81010 and 2 Cal. Code of Regs, §18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interest in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

ATTACHMENT B

(Definitions of Political Reform Act of 1974 and Regulations of the Fair Political Practices Commission attached to aid in determining disclosure requirements and designated employee disqualification)

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DEFINITIONS

1. BUSINESS ENTITY: Any organization or enterprise operated for profit, including, but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association. (§ 82005.)
2. CONSULTANT: Any natural person who provides, under contract, information, advice, recommendation or counsel to the District. But "consultant" shall not include a person who:
 - a. Conducts research and arrives at conclusions with respect to his rendition of information, advice, recommendation or counsel independent of the control and direction of the District or of any official, other than normal contract monitoring; and
 - b. possesses no authority with respect to any District decision beyond the rendition of information, advice, recommendation or counsel. (Reg. § 18700(a)(2))
3. DESIGNATED EMPLOYEE: Any officer, employee, member, or consultant of any agency whose position with the agency is designated in the Appendix to the District's Code. The Appendix sets forth those positions which entail the making or participation in the making of governmental decisions which may foreseeably have a material financial effect on any financial interest, but does not include any unsalaried member of any board or commission which serves a solely advisory function. (§82019.)
4. FINANCIAL INTEREST: A designated employee has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, including all property owners with the District or all those served by the District, or on any significant segment of the property owners within the District or those served by the District or of the public generally, on:
 - a. The designated employee or a member of his or her immediate family;
 - b. Any business entity in which the designated employee has a direct or indirect interest worth \$2,000 or more;
 - c. Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;
 - d. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within twelve months prior to the time when the decision is made;
 - e. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
 - f. Any donor of, or any intermediary or agent for a donor of a gift or gifts aggregating \$340 or more in value provided to, received by, or promised to the designated employee within twelve months prior to the time when the decision is made.

5. IMMEDIATE FAMILY: A spouse and dependent children. (§82029)

6. INCOME:

a. "Income" means, except as provided in subdivision "b" below, a payment received from any source located within the jurisdiction of the District, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a 10 percent interest or greater. Income, other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two year period prior to the time any statement or other action is required under the Act.

b. Income also does not include:

(1) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974.

Income from a source which is a former employer if: All income from the employer was received by or accrued to the designated employee prior to the time he or she became a designated employee; the income was received in the normal course of the previous employment; and there was no expectation by the designated employee at the time he or she assumed the designated position of renewed employment with the former employer (Reg. 18704);

(2) Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) Any devise or inheritance.

(4) Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.

(6) Redemption of mutual funds.

(7) Alimony or child support payments.

- (8) Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status.
 - (9) Any loan from or payments received on a loan made to an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan or loan payment received from any such person shall be considered income if he or she is acting as an agent or intermediary for any person not covered by this paragraph.
 - (10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status.
 - (11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).
 - (12) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the filer sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.
7. INDIRECT INVESTMENTS OR INTEREST: Any investment or interest owned by the spouse or dependent child of a designated employee, an agent on behalf of the designated employee, by any business entity or by a trust in which the designated employee or his or her agents, spouse or dependent own directly, indirectly or beneficially a 10% or greater interest (§87103).
8. INTEREST IN REAL PROPERTY: Includes any leasehold, beneficial or ownership interest or an option to acquire such interest in real property located within the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is \$2,000 or more. Interests in real property of an individual include a pro rata share of interest in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10% interest or greater (§82033). An interest in real property does not include a tenancy of one month or less (Reg. 18233)
9. INVESTMENT: Any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000).

Investment does not include:

- a. A time or demand deposit in a financial institution;
- b. any shares in a credit union;
- c. any insurance policy;
- d. interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940, or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency.

Investments of an individual include a pro rata share of investments of any business entity, mutual fund or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10% interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the FPPC. (§82034)

10. **JURISDICTION:** The geographical area within the District's boundaries, except that real property shall be deemed to be within the "jurisdiction" of the District if any part of it is located within or not more than two miles outside the boundaries of the District, or within two miles of any land owned or used by the District. (§82035)
11. **MAKING GOVERNMENTAL DECISIONS:** A designated employee is involved in "making governmental decisions", except as provided in subsection b under the definition "participating in the making of governmental decisions" of this attachment, when he or she, acting within the authority of his or her office:
 - a. Votes on a matter;
 - b. appoints a person;
 - c. obligates or commits the District to any course of action;
 - d. enters into any contractual agreement on behalf of the District;
 - e. determines not to act, within the meaning of subparagraphs a, b, c, d, unless such determination is made because of his or her financial interest. When the determination not to act occurs because of his financial interest, the designated employee's determination must be accompanied by disclosure of the financial interest in the manner prescribed in Section 10 of the Standard Code. (Reg. 18700(b)(10.))
12. **MATERIAL FINANCIAL EFFECT-SPECIAL AND GENERAL RULES:** Attached Regulations 18702 through 18702.6 set forth the special and general rules to determine whether the effects of the decision would be material.
13. **EFFECT ON THE PUBLIC GENERALLY:** Attached regulations 18703, 18703.1 and 18703.5.
14. **PUBLIC OFFICIAL:** Every member, officer, employee or consultant of a state or local government agency. (§82048.)

15. PARTICIPATING IN THE MAKING OF GOVERNMENTAL DECISIONS:

- a. A designated employee "participates in the making of a governmental decision," except as provided in b. below when he or she, acting within the authority of his or her position:
 - (1) Negotiates without significant substantive review, with a governmental entity or private person regarding the decision; or
 - (2) advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:
 - (i) Conducting research or investigations which require(s) the exercise of judgment on the part of the designated employee and the purpose of which is to influence the decision; or
 - (ii) preparing or presenting any report, analysis, or opinion, orally or in writing, which requires the exercise of judgment on the part of a designated employee and the purpose of which is to influence the decision.
- b. Making or "participating in the making of a governmental decision" shall not include:
 - (1) Actions of designated employees that are solely ministerial, secretarial, manual or clerical;
 - (2) appearances by a designated employee as a member of the general public before an agency in the course of its prescribed governmental function to represent himself of herself on matters related solely to his or her personal interests; or
 - (3) actions by designated employees or their representatives relating to their compensation or the terms or conditions of their employment contract.

16. LEGALLY REQUIRED PARTICIPATION

- a. A public official is not legally required to make or to participate in the making of a governmental decision within the meaning of Government Code § 87101 unless there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.
- b. Whenever a public official who has a financial interest in a decision is legally required to make or to participate in making such a decision, he or she shall:
 - (1) Disclose as a matter of official public record the existence of the financial interest;
 - (2) Describe with particularity the nature of the financial interest before he or she makes or participates in making the decision;
 - (3) State the reason there is no alternative source of decision-making authority;
 - (4) Participate in the decision only in an open meeting of the agency, as required by Government Code § 11123 and 54953, or in closed session, as provided in Government

Code § 11126, 54956.7, 54956.8, 54956.9, 54957 and 54957.6 where participation by the official is legally required for the agency to act.

c. This regulation shall be construed narrowly, and shall:

- (1) Not be construed to permit an official, who is otherwise disqualified under Government Code § 87100, to vote to break a tie.
- (2) Not be construed to allow a member of any public agency, who is otherwise disqualified under Government Code § 87100, to vote if a quorum can be convened of other members of the agency who are not disqualified under Government Code § 87100, whether or not such other members are actually present at the time of the disqualification (Reg. 18701).

17. SOURCES OF COMMISSION INCOME TO BROKERS, AGENTS AND SALESPERSONS are governed as rules set forth in attached Regulation 18704.3
18. VALUATION, RECEIPT AND RETURN OF GIFTS RULES. Attached Regulations 18944 through 18946.4 set forth rules as to the valuation, receipt and return of gifts.

Title 2, California Code of Regulations Excerpts

§18702. Making, Participating in Making, or using or Attempting to Use Official Position to Influence a Government Decision, Defined.

(a) To determine if a public official is making, participating in making, or using or attempting to use his/her official position to influence a government decision, apply 2 Cal. Code Regs. Sections 18702.1 through 18702.4, respectively.

(b) Notwithstanding subdivision (a) of this regulation, to determine if a public official who holds an office specified in Government Code section 87200 is making, participating in making, or using or attempting to use his or her official position to influence a governmental decision relating to an agenda item which is noticed for a meeting subject to the provisions of the Bagley-Keene Act (Government Code section 11120 et seq.) or the Brown Act (Government Code section 54950 et seq.) apply 2 Cal. Code Regs. Sections 18702.1(a)(1)-(a)(4), 18702.2, 18702.3, 18702.4, 18702.5.

§18702.1 Determining When a Public Official is Making a Governmental Decision.

(a) A public official "makes a governmental decision," except as provided in 2 Cal. Code Regs. Section 18702.4, when the official, acting within the authority of his or her office or position:

- (1) Votes on a matter;
- (2) Appoints a person;
- (3) Obligates or commits his or her agency to any course of action;
- (4) Enters into any contractual agreement on behalf of his or her agency;
- (5) Determines not to act, within the meaning of subdivisions (a)(1), (a)(2), (a)(3), or (a)(4) above, unless such determination is made because of his or her financial interest. When the determination not to act occurs because of the official's financial interest, the official's determination may be accompanied by an oral or written disclosure of the financial interest.

(b) When an official with a disqualifying conflict of interest abstains from making a governmental decision in an open session of the agency and the official remains on the dais or in his or her designated seat during deliberations of the governmental decision in which he or she is disqualified, his or her presence shall not be counted toward achieving a quorum.

(c) During a closed meeting of the agency, a disqualified official shall not be present when the decision is considered or knowingly obtain or review a recording or any other non-public information regarding the governmental decision.

(d) Notwithstanding subdivision (a) of this regulation, to determine if a public official who holds an office specified in Government Code section 87200 is making, participating in making, or using or attempting to use his or her official position to influence a governmental decision relating to an agenda item which is noticed for a meeting subject to the provisions of the Bagley-Keene Act (Government Code section 11120 et seq.) or the Brown Act (Government Code section 54950 et seq.) apply 2 Cal. Code Regs. Sections 18702.1(a)(1)-(a)(4), 18702.2, 18702.3, 18702.4, 18702.5.

COMMENT: Nothing in this section authorizes or prohibits an agency by local rule or custom from requiring a disqualified member to step down from the dais and/or leave the chambers.

§18702.2 Determining When a Public Official is Participating in Making a Governmental Decision.

A public official "participates in making a governmental decision," except as provided in Title 2, California Code of Regulations, section 18702.4, when, acting within the authority of his or her position, the official:

(a) Negotiates, without significant substantive review, with a governmental entity or private person regarding a governmental decision referenced in Title 2, California Code of Regulations, section 18701(a)(2)(A);

(b) Advises or makes recommendations to the decisionmaker either directly or without significant intervening substantive review, by:

- (1) Conducting research or making any investigation which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision referenced in Title 2, California Code of Regulations, section 18701(a)(2)(A); or
- (2) Preparing or presenting any report, analysis, or opinion, orally, or in writing, which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision referenced in Title 2, California Code of Regulations, section 18701(a)(2)(A).

§18702.3 Determining When a Public Official is Using or Attempting to Use His/Her Official Position to Influence a Governmental Decision.

(a) With regard to a governmental decision which is within or before an official's agency or an agency appointed by or subject to the budgetary control of his or her agency, the official is attempting to use his or her official position to influence the decision if, for the purpose of influencing the decision, the official contacts, or appears before, or otherwise attempts to influence, any member, officer, employee or consultant of the agency. Attempts to influence include, but are not limited to, appearances or contacts by the official on behalf of a business entity, client, or customer.

(b) With regard to a governmental decision which is within or before an agency not covered by subsection (a), the official is attempting to use his or her official position to influence the decision if, for the purpose of influencing the decision, the official acts or purports to act on behalf of, or as the representative of, his or her agency to any member, officer, employee or consultant of an agency. Such actions include, but are not limited to the use of official stationery.

§18702.4 Exceptions.

- (a) Making or participating in making a governmental decision shall not include:
- (1) Actions of public officials which are solely ministerial, secretarial, manual, or clerical;
 - (2) Appearances by a public official as a member of the general public before an agency in the course of its prescribed governmental function to represent himself or herself on matters related solely to the official's personal interests as defined in Title 2, California Code of Regulations, section 18702.4(b)(1); or
 - (3) Actions by public officials relating to their compensation or the terms or conditions of their employment or contract. In the case of public officials who are "consultants," as defined in Title 2, California Code of Regulations, section 18701(a)(2), this includes actions by consultants relating to the terms or conditions of the contract pursuant to which they provide services to the agency, so long as they are acting in their private capacity.
- (b) Notwithstanding Title 2, California Code of Regulations, section 18702.3(a), an official is not attempting to use his or her official position to influence a governmental decision of an agency covered by that subsection if the official:
- (1) Appears in the same manner as any other member of the general public before an agency in the course of its prescribed governmental function solely to represent himself or herself on a matter which is related to his or her personal interests. An official's "personal interests" include, but are not limited to:
 - (A) An interest in real property which is wholly owned by the official or members of his or her immediate family.

- (B) A business entity wholly owned by the official or members of his or her immediate family.
 - (C) A business entity over which the official exercises sole direction and control, or over which the official and his or her spouse jointly exercise sole direction and control.
- (2) Communicates with the general public or the press.
- (3) Negotiates his or her compensation or the terms and conditions of his or her employment or contract.
- (4) Prepares drawings or submissions of an architectural, engineering or similar nature to be used by a client in connection with a proceeding before any agency. However, this provision applies only if the official has no other direct oral or written contact with the agency with regard to the client's proceedings before the agency except for necessary contact with agency staff concerning the processing or evaluation of the drawings or submissions prepared by the official.
- (5) Appears before a design or architectural review committee or similar body of which he or she is a member to present drawings or submissions of architectural, engineering or similar nature which the official has prepared for a client if the following three criteria are met:
 - (A) The review committee's sole function is to review architectural or engineering plans or designs and to make recommendations in that instance concerning those plans or designs to a planning commission or other agency;
 - (B) The ordinance or other provision of law requires that the review committee include architects, engineers or persons in related professions, and the official was appointed to the body to fulfill this requirements; and
 - (C) The official is a sole practitioner.
- (c) Academic Decisions
 - (1) Except as provided in subsection (c)(2), neither disclosure of financial interests nor disqualification is required under Government Code section 87100, 87302, or any Conflict of Interest code, in connection with:
 - (A) Teaching decisions, including the selection by a teacher of books or other educational materials for use within his or her own school or institution, and other decisions incidental to teaching;
 - (B) Decisions made by a person who has teaching or research responsibilities at an institution of higher education to pursue personally a course of academic study or research, to apply for funds to finance such a project, to allocate financial and material resources for such academic study or research, and all decisions relating to the manner or methodology with which such study or research will be conducted. Provided, however, that the provisions of this subsection (c)(1)(B) shall not apply with respect to any decision made by the person in the exercise of institution- or campus-wide administrative responsibilities respecting the approval or review of any phase of academic research or study conducted at that institution or campus.
 - (2) Disclosure shall be required under Government Code section 87302 or any Conflict of Interest Code in connection with a decision made by a person or persons at an institution of higher education with principal responsibility for a research project to undertake such research, if it is to be funded or supported, in whole or in part, by a contract or grant (or other funds earmarked by the donor for a specific research project or for a specific researcher) from a nongovernmental entity, but disqualification may not be required under Government Code section 87100, 87302 or any Conflict of Interest Code in connection with any such decision if the decision is substantively reviewed by an independent committee established within the institution.

§18702.5 Public Identification of a Conflict of Interest for Section 87200 Filers.

- (a) Government Code section 87105 and this regulation apply when a public official who holds an office specified in Government Code section 87200 has a financial interest in a decision within the meaning of Government Code section 87100, and the governmental decision related to an agenda item which is noticed for a meeting subject to the provisions of the Bagley-Keene Act (Government Code section 11120 et seq.) or the Brown Act (Government Code section 54950 et seq.).
- (b) Content & Timing of Identification: The public official shall, following the announcement of the agenda item to be discussed or voted upon but before either the discussion or vote commence, do all of the following:
- (1) The public official shall publicly identify:
 - (A) Each type of economic interest held by the public official which is involved in the decision (i.e., investment, business position, interest in real property, personal financial effect, or the receipt or promise of income or gifts), and
 - (B) The following details identifying the economic interest(s):
 - (i) if an investment, the name of the business entity in which each investment is held;
 - (ii) if a business position, a general description of the business activity in which the business entity is engaged as well as the name of the business entity;
 - (iii) if real property, the address or another indication of the location of the property, unless the property is the public official's principal or personal residence, in which case, identification that the property is a residence;
 - (iv) if income or gifts, then identification of the source; and
 - (v) if personal financial effect, then identification of the expense, liability, asset or income affected.
 - (2) Form of Identification: If the governmental decision is to be made during an open session of a public meeting, the public identification shall be made orally and shall be made part of the official public record.
 - (3) Recusal/Leaving the Room: The public official must recuse himself or herself and leave the room after the identification required by subdivisions (b)(1) and (b)(2) of this regulation is made. He or she shall not be counted toward achieving a quorum while the item is discussed.
- (c) Special Rules for Closed Session: If the governmental decision is made during a closed session of a public meeting, the public identification may be made orally during the open session before the body goes into closed session and shall be limited to a declaration that his or her recusal is because of a conflict of interest under Government Code section 87100. The declaration shall be made part of the official public record. The public official shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the governmental decision.
- (d) Exceptions:
- (1) Uncontested Matters: The exception from leaving the room granted in Government Code section 87105(a)(3) for a "matter [that] has been placed on the portion of the agenda reserved for uncontested matters" shall mean agenda items on the consent calendar. When the matter in which the public official has a financial interest is on the consent calendar, the public official must comply with subdivisions (b)(1) and (b)(2) of this regulation, and recuse himself or herself from discussion or voting on that matter, but the public official is not required to leave the room during the consent calendar.
 - (2) Absence: If the public official is absent when the agenda item subject to subdivision (a) of this regulation is considered, then Government Code section 87105 and this regulation impose no public identification duties on the public official for that item at that meeting.
 - (3) Speaking as a member of the Public Regarding an Applicable Personal Interest: When a personal interest found in 2 Cal. Code Regs. Section 18702.4(b) is present, a public official may speak as a member of the general public if he or she complies with subdivisions (b)(1) and (b)(2) of this regulation,

recuses himself or herself from voting on the matter and leaves the dais to speak from the same area as the members of the public. He or she may listen to the public discussion of the matter with the members of the public.

COMMENT: Nothing in the provisions of this regulation is intended to cause an agency or public official to make any disclosure that would reveal the confidences of a closed session or any other privileged information as contemplated by law including but not limited to the recognized privileges found in 2 Cal. Code Regs. Section 18740.

§18702.6 Material Financial Effect: Source of income or Gifts Who is an Individual Indirectly Involved in the Decision.

Repealer fled 11/23/1998; operative 11/23/98.

§18703 Economic Interests, Defined.

For purposes of Title 2, Division 6, Chapter 7 of the California Code of Regulations, the term "economic interest" includes the interests defined in Title 2, California Code of Regulations, sections 18703.1 through 18703.5, inclusive.

§18703.1 Economic Interest, Defined: Business Entities.

For purposes of disqualification under Government Code section 87100 and 87103, a public official has an economic interest in a business entity if any of the following are true:

- (a) The public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more in the business entity.
- (b) The public official is a director, officer, partner, trustee, employee, or holds any position of management in the business entity.
- (c) Parent, Subsidiary, Otherwise Related Business Entity. An official has an economic interest in a business entity which is a parent or subsidiary of, or is otherwise related to, a business entity in which the official has one of the interests defined in Government Code section 87103(a) or (d).
- (d) parent, Subsidiary, Otherwise Related Business Entity, defined.
 - (1) Parent-subsidiary. A parent-subsidiary relationship exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.
 - (2) Otherwise related business entity. Business entities, including corporations, partnerships, joint ventures and any other organizations and enterprises operated for profit, which do not have a parent-subsidiary relationship are otherwise related if any one of the following three tests is met.
 - (A) One business entity has a controlling ownership interest in the other business entity.
 - (B) There is shared management and control between the entities. In determining whether there is shared management and control, consideration should be given to the following factors:
 - (i) The same person or substantially the same person owns and manages the two entities;
 - (ii) There are common or commingled funds or assets;
 - (iii) The business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis;

- (iv) There is otherwise a regular and close working relationship between the entities;
or
- (C) A controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.
- (e) Although a public official may not have an economic interest in a given business entity pursuant to subdivisions (a)-(c) of this section, the public official may nonetheless have an economic interest in the business entity if it is a source of income to him or her. (See 2 Cal. Code Regs. Section 18703.3).

§18703.5 Economic Interest, Defined: Personal Finances.

For purposes of disqualification under Government Code section 87100 and 87103, a public official has an economic interest in his or her personal finances and those of his or her immediate family. A governmental decision will have an effect on this economic interest if the decision will result in the personal expenses, income, assets, or liabilities of the official or his or her immediate family increasing or decreasing.

§18704.3 Sources of Commission Income to Brokers, Agents and Salespersons

Repealer filed 11/23/98; operative 11/23/98.

§18944 Valuation of Gifts to an Official and His or Her Family

- (a) Gifts given directly to members of an official's immediate family are not gifts to the official unless used or disposed of by the official or given by the recipient member of the official's immediate family to the official for disposition or use at the official's discretion.
- (b) Gifts delivered by mail or other written communication are given directly to members of the official's immediate family if the family members' names or familial designations (such as "spouse") appear in the address on the envelope or in the communication tendering or offering the gift, and the gift is intended for their use or enjoyment.
- (c) A gift given to the official, but designated for the official and spouse or family, is a gift to the official if the official exercises discretion and control over who will actually use the gift.
- (d) If the official enjoys direct benefit from a single gift, as well as members of the officials' family, the full value of the gift is attributable to the official.

§18944.1 Recipient of the Gift: Passes or Tickets Given to an Agency.

Passes or tickets which provide admission or access to facilities, goods or services, or other tangible or intangible benefits, (including passes to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, but not including travel or lodging), which are provided to an official are not gifts to the official whenever (a), (b), (c), (d) or (e) applies:

- (a) The donor gives the tickets or passes to the official's agency, through a responsible official of the agency, for the sole purpose of distributing the passes or tickets to official of the agency and their spouses and immediate families and use of the tickets or passes is so limited by the agency; and
- (b) The tickets or passes are provided to the agency for an event at a publicly-owned facility under the jurisdiction of the agency and neither the agency nor any official of the agency receiving or distributing the tickets or passes for the agency gives any of the tickets or passes to any person who is not an official of the agency, or not the official's spouse or immediate family member.
- (c) The tickets or passes are provided to the agency as part of the contract for the use of the facility and the distribution and use of the passes or tickets are regulated by an officially adopted policy of the agency.

- (d) The tickets or passes are provided to the official of the agency for use by the official and his or her spouse and immediate family because the official has an official or ceremonial role or function to perform on behalf of the agency at the event in question.
- (e) The tickets or passes are provided to an agency or officials of the agency for use at an event at a publicly-owned facility construction or operated under the provisions of a joint exercise of powers agreement and such agency is a party to the joint exercise of powers agreement, and the distribution and use of the passes or tickets are regulated by an officially adopted policy of the agency.

§18944.2 Gifts to an Agency

- (a) A payment, which is a gift as defined in Government Code Section 82028, shall be deemed a gift to a public agency, and not a gift to a public official, if all of the following requirements are met:
- (1) The agency receives and controls the payment.
 - (2) The payment is used for official agency business.
 - (3) The agency, in its sole discretion, determines the specific official or officials who shall use the payment. However, the donor may identify a specific purpose for the agency's use of the payment, so long as the donor does not designate the specific official or officials who may use the payment.
 - (4) The agency memorializes the payment in a written public record which embodies the requirements of subdivisions (a)(1) to (a)(3) of this regulation set forth above and which:
 - (A) Identifies the donor and the official, officials, or class of officials receiving or using the payment;
 - (B) Describes the official agency use and the nature and amount of the payment; and
 - (C) Is filed with the agency official who maintains the records of the agency's statements of economic interests where the agency has a specific office for the maintenance of such statements, or where no specific office exists for the maintenance of such statements, at a designated office of the agency, and the filing is done within 30 days of the receipt of the payment by the agency.
- (b) Notwithstanding subdivisions (a)(3) and (a)(4) of this regulation, a donation to a California public college or university for a specific research project which is received consistent with the requirements of California Code of Regulations, Title 2, Section 18702.4(c) and for meals received in the course of an official fundraising activity, which qualify under federal and state law for a deduction as a charitable contribution for educational purposes, will be deemed a gift to the college or university.

§18945. Source of Gifts.

- (a) General Rule. A person is the source of a gift if the person makes a gift to an official and is not acting as an intermediary.
- (1) If a person makes a payment to a third party and in fact directs and controls the use of the payment to make a gift to one or more clearly identified officials, the person is the source of the gift to the official or officials.
 - (2) Dues. If a person pays dues or makes a similar payment for membership in a bona fide association, including any federation, confederation, or trade, labor or membership organization, some portion of which dues or similar payments are used to make gifts to officials, that person is not the source of the gifts to those officials. However, the person is the source of the gift if the sole or primary purpose of the dues or similar payments is to make gifts to officials.
- (b) Presumption of Source by Officials. An official may presume that the person delivering the gift or, if the gift is offered but has not been delivered, the person offering the gift to him or her is the source of the gift unless either of the following are met:

- (1) The person delivering or offering the gift discloses to the official the actual source of the gift;
or
- (2) It is clear from the surrounding circumstances at the time the gift is delivered or offered that the person delivering or offering the gift is not the actual source of the gift.

§18945.1. Cumulation of Gifts; "Single" Source

For purposes of the limitations in Government Code Section 89501 through 89506, two or more gifts are cumulated as being from a "single" source if any of the following circumstances apply:

- (a) Gifts from an individual and an entity in which the individual has an ownership interest of more than 50 percent shall be cumulated as being gifts from a "single" source.
- (b) Except as provided in subdivision (a), gifts from an individual and an entity shall be cumulated as being gifts from a "single" source if the individual in fact directs and controls the decision of the entity to make the gifts.
- (c) If the same person or a majority of the same persons in fact directs and controls the decisions of two or more entities to make gifts to one or more public officials or candidates, gifts by those affiliated entities shall be cumulated as being gifts from a "single" source.
- (d) Business entities in a parent-subsidary relationship, or business entities with the same controlling (more than 50 percent) owner, shall be considered a "single" source unless the business entities act independently in their decisions to make gifts to one or more public officials or candidates. For purposes of this regulation, a parent-subsidary relationship exists when one business entity owns more than 50 percent of another business entity.

§18945.3. Intermediary of a Gift.

- (a) Intermediaries of Gifts to Persons Required to File Under Title 9, Chapter 7, Article 2 of the Government Code—No person shall make a gift totaling fifty dollars (\$50) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.
- (b) Intermediaries of Gifts to Persons Required to File Under Title 9, Chapter 7, Article 3 of the Government Code—No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.
- (c) Notwithstanding subdivisions (a) and (b) above, it shall be unlawful for a lobbyist or lobbying firm to act as an intermediary in the making of any gift aggregating more than \$10 per calendar month to a state candidate, elected state officer, legislative official or agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

§18945.4. A Gift from Multiple Donors.

A gift which is received from multiple donors must be reported if the gift's value equals or exceeds \$40. The name of any donor whose share of the gift is less than \$50 in value need not be separately reported; it

is sufficient to describe in general terms those who gave the gift. If, however, the share of any donor or his or her [agent or] intermediary is \$50 or more in value, his or her name must be reported.

§18946. Reporting and Valuation of Gifts.

(a) Scope of Section. Except as specified in California Code of Regulations, Title 2, Sections 18946.1 through 18946.5, inclusive, gifts shall be valued at fair market value as of the date of receipt or promise. Sections 18946.1 through 18946.5 provide for the valuation of specific types of gifts in the following situations:

Passes and Season Tickets — Regulation 18946.1

Testimonial Dinners and Events — Regulation 18946.2

Wedding Gifts — Regulation 18946.3

Tickets to Nonprofit and Political Fundraisers — Regulation 18946.4

Prizes and Awards from Bona Fide Competitions — Regulation 18946.5

(b) General Rule for Valuation of Unique Gifts. Whenever the fair market value cannot readily be ascertained because the gift is unique or unusual, the value shall be the cost to the donor, if known or ascertainable. If the cost to the donor is unknown or unascertainable, the recipient shall make a reasonable approximation. In making such an approximation, the recipient shall take into account the price of similar items. If similar items are not available as a guide, a good faith estimate shall be utilized.

(c) Except as specified in California Code of Regulations, Title 2, Sections 18943, 18944, 18946.1, a gift must be valued, for purposes of disclosure and disqualification, even if unused, discarded or given to another person.

§18946.1. Reporting and Valuation of Gifts: Passes and Tickets.

(a) A pass or ticket which provides one-time admission or access to facilities, goods, services, or other incidental tangible or intangible benefits (including a pass to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, and also including a ticket for theater, opera, sporting, or similar event, but not including travel or lodging) shall be valued at the face value of the pass or ticket, provided that the face value is a price that was, or otherwise would have been, offered to the general public. A pass or ticket has no value unless it is ultimately used or transferred to another person.

(b) A pass or ticket which provides repeated admission or access to facilities, goods, services, or other incidental tangible or intangible benefits (including a pass to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, and also including a ticket for theater, opera, sporting, or similar event, but not including travel or lodging) shall be valued as follows:

- (1) For purposes of disclosure and the gift limits, the value shall be the fair market value of the actual use of the pass or ticket by the recipient, including guests who may accompany the recipient and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person or persons to whom the privilege of use of the pass or ticket is transferred.
- (2) For purposes of disqualification, the value shall be the actual use of the pass or ticket by the official, including guests who may accompany the official and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person or persons to whom the official transfers the privilege of use of the pass or ticket, through the date of the governmental decision in question; plus the fair market value of the maximum reasonable use following the date of the decision. If the official returns the pass or any unused ticket prior to the decision, the value shall be determined pursuant to subdivision (b)(1).

§18946.2. Reporting and Valuation of Gifts: Testimonial Dinners and Events.

When an official or candidate is honored at a testimonial dinner or similar event, at which campaign fundraising for the official or candidate does not occur, the value received is the official's or candidate's pro rata share of the cost of the event, plus the value of any specific tangible gift that is presented to the official candidate at the event.

§18946.3. Reporting and Valuation of Gifts: Wedding Gifts.

Notwithstanding the provisions of California Code of Regulations, Title 2, Section 18944, wedding gifts given to an official and his or her spouse or spouse-to-be are considered as gifts to both spouses equally, and the official is deemed to receive one-half of the value as determined pursuant to California Code of Regulations, Title 2, Section 18946, unless the gift is peculiarly adaptable to the personal use and enjoyment of one spouse or specifically and unequivocally intended exclusively for use and enjoyment by one spouse, in which event the full value of the gift is attributed to that spouse.

§18946.4. Reporting and Valuation of Gifts: Tickets to Nonprofit and Political Fundraisers.

A gift of a ticket or other admission privileges to a specific fundraising event shall be valued as set forth below.

(a) Nonprofit Fundraiser. Except as provided in subdivision (b), a ticket to a fundraising event for a nonprofit, tax-exempt organization that is not a committee as defined in Government Code Section 82013(a) shall be valued as follows:

- (1) Where the event is a fundraising event for a nonprofit organization, and the ticket clearly states that a portion of the ticket price is a donation to the organization, then the value of the gift is the face value of the ticket or admission reduced by the amount of the donation.
 - (2) If the ticket has no stated price or no stated donation portion, the value of the gift is the fair market value of any food, beverage, or other tangible benefits provided to each attendee.
- (b) Where the event is a fundraising event for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue code, the ticket or other admission privilege has no value.
- (c) Political Fundraiser. Where the event is a fundraising event for a campaign committee or candidate, the ticket or other admission privilege has no value.